



CGB-CC-0933

Received & Inspected

DEC 14 2009  
FCC Mail Room

**Bishop Lambert W. Gates, Sr.**  
Senior Pastor & President of Corporation

December 7, 2009

*Chairman of the Board of Trustees*  
Bishop Lambert W. Gates, Sr.

*Vice-Chairman of the  
Board of Trustees*  
Floyd V. Jackson

*Corporate Secretary*  
Don I. Ireland

*Corporate Treasurer*  
Stanley L. Crutcher

*Assistants Treasurer*  
Roderick A. Watts

*Church Administrator*  
Patti A. Jones

Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12<sup>th</sup> Street, SW  
Washington, D.C. 20554

Re: Petition for Undue Burden Exemption  
from Closed Captioning Rules

Dear Ms. Dortch:

This letter is submitted pursuant to 47 C.F.R. §79.1(f) and requests an exemption on behalf of **Mt. Zion Apostolic Church** from the FCC's closed captioning rules based on undue burden. In accordance with 47 C.F.R. §79.1(f)(4), the original and two copies of this letter and all support are being provided.

**Mt. Zion Apostolic Church** is a donor supported non-profit organization under the laws of the state of Indiana. Since July of 2001, we have produced a weekly 30-minute video program called "Victory Through Praise". "Victory Through Praise" is a program of preaching and music to inspire viewers and teach the Word of God.

"Victory Through Praise" is locally produced in-house by the **Mt. Zion Apostolic Church** staff, and is broadcast to the public on **WHMB-TV 40, Indianapolis**. **Mt. Zion Apostolic Church** pays **WHMB \$600 per program** to air the show over its broadcast facilities.

Captioning the program would present an undue burden for several reasons. First, since we do not have the resources to caption the program ourselves, it would have to be sent to an outside source for captioning. Second, the added production cost for captioning would make production of the program unaffordable and the time for captioning would make meeting **WHMB** air-date deadlines impossible. Finally, a captioning requirement would ultimately cause us to either terminate or severely limit production of the program, and cause us to lose viewers and supporters who would no longer be able to regularly view the program. We have discussed with **WHMB** the possibility of their assisting us in captioning the program at no cost, but they have advised us that they do not have the necessary resources or staffing to perform captioning on our behalf.

**Mt. Zion Apostolic Church** respectfully submits that the basis for its captioning exemption request based on undue burden is practically identical to the facts justifying undue burden exemptions in the Commission's 2006 Memorandum Opinion & Order, *In Re: Anglers for Christ Ministries, Inc. & New Beginning Ministries Petitions for Exemption from Closed Captioning Requirements*, CGB-CC-0005 and -0007, 21 FCC Rcd 10094 (September 12, 2006). In light of that precedent, and the facts set forth in this letter, we respectfully request that **Mt. Zion Apostolic Church** be granted an undue burden exemption from the captioning requirements for "Victory Through Praise".


"A Ministry with an Ever Expanding Vision"

**Declaration Under Penalty of Perjury of Bishop Lambert W. Gates, Sr.  
in support of Mt. Zion Apostolic Church's Request for Undue Burden Exemption from Closed  
Captioning Rules**

I, **Bishop Lambert W. Games, Sr., Senior Pastor of Mt. Zion Apostolic Church**, do hereby declare under penalty of perjury of the laws of the United States of America that the following statements are true and correct.

1. **Mt. Zion Apostolic Church** is a donor supported non-profit organization organized under the laws of the state of **Indiana**.
2. Since 2001, **Mt. Zion Apostolic Church** has produced a 30-minute video program called "**Victory Through Praise**". "**Victory Through Praise**" is a program that uses **preaching and music** to inspire viewers and teach the Word of God. "**Victory Through Praise**" is locally produced in-house by **Mt. Zion Apostolic Church** staff, and is broadcast to the public on **WHMB-TV 40, Indianapolis**. **Mt. Zion Apostolic Church** pays [TV station] \$600 per program to air the show over its broadcast facilities.
3. **Mt. Zion Apostolic Church** has discussed with **WHMB** the possibility of their assisting in captioning "**Victory Through Praise**" at no cost, but they have advised us that they do not have the necessary resources or staffing to perform captioning on our behalf.
4. Captioning "**Victory Through Praise**" would present an undue burden because we do not have the resources to caption the program ourselves, and it would have to be sent to an outside source for captioning.
5. The added production cost for captioning would make production of the program unaffordable and the time for captioning would make meeting **WHMB** air-date deadlines impossible.
6. A captioning requirement for "**Victory Through Praise**" would ultimately cause **Mt. Zion Apostolic Church** to either terminate or severely limit production of the program, and cause us to lose viewers and supporters who would no longer be able to regularly view the program.


Executed on November 30, 2009

  
Signature

In support of our request, we provide a copy of certain documents establishing **Mt. Zion Apostolic Church's** non-profit status. In addition, as permitted by §1.16 of the Commission's rules, we are providing a Declaration Under Penalty of Perjury in support of the facts set forth in this request for exemption in lieu of the affidavit required by §79.1(f)(9). Should the Commission require additional information, please contact the undersigned individual.

Respectfully:

**Mt. Zion Apostolic Church**

By:   
Printed Name: Bishop Lambert W. Gates, Sr.  
Title: Senior Pastor

INTERNAL REVENUE SERVICE  
DISTRICT DIRECTOR  
P. O. BOX 2508  
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date:

**AUG 24 1998**

MT ZION APOSTOLIC CHURCH INC  
4900 E 38TH ST  
INDIANAPOLIS, IN 46218-1669

Employer Identification Number:

23-7438282

DLN:

17053160042028

Contact Person:

D. A. DOWNING

Contact Telephone Number:

(513) 241-5199

Accounting Period Ending:

December 31

Form 990 Required:

No

Addendum Applies:

No

Dear Applicant:

Based on information supplied, and assuming your operations will be as stated in your application for recognition of exemption, we have determined you are exempt from federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(3).

We have further determined that you are not a private foundation within the meaning of section 509(a) of the Code, because you are an organization described in sections 509(a)(1) and 170(b)(1)(A)(i).

If your sources of support, or your purposes, character, or method of operation change, please let us know so we can consider the effect of the change on your exempt status and foundation status. In the case of an amendment to your organizational document or bylaws, please send us a copy of the amended document or bylaws. Also, you should inform us of all changes in your name or address.

As of January 1, 1984, you are liable for taxes under the Federal Insurance Contributions Act (social security taxes) on remuneration of \$100 or more you pay to each of your employees during a calendar year. This does not apply, however, if you make or have made a timely election under section 3121(w) of the Code to be exempt from such tax. You are not liable for the tax imposed under the Federal Unemployment Tax Act (FUTA).

Since you are not a private foundation, you are not subject to the excise taxes under Chapter 42 of the Code. However, if you are involved in an excess benefit transaction, that transaction might be subject to the excise taxes of section 4958. Additionally, you are not automatically exempt from other federal excise taxes. If you have any questions about excise, employment, or other federal taxes, please contact your key district office.

Grantors and contributors may rely on this determination unless the Internal Revenue Service publishes notice to the contrary. However, if you lose your section 509(a)(1) status, a grantor or contributor may not rely on this determination if he or she was in part responsible for, or was aware of, the act or failure to act, or the substantial or material change on the part of the organization that resulted in your loss of such status, or if he or

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MT ZION APOSTOLIC CHURCH INC

she acquired knowledge that the Internal Revenue Service had given notice that you would no longer be classified as a section 509(a)(1) organization.

Donors may deduct contributions to you as provided in section 170 of the Code. Bequests, legacies, devises, transfers, or gifts to you or for your use are deductible for federal estate and gift tax purposes if they meet the applicable provisions of Code sections 2055, 2106, and 2522.

Contribution deductions are allowable to donors only to the extent that their contributions are gifts, with no consideration received. Ticket purchases and similar payments in conjunction with fundraising events may not necessarily qualify as deductible contributions, depending on the circumstances. See Revenue Ruling 67-246, published in Cumulative Bulletin 1967-2, on page 104, which sets forth guidelines regarding the deductibility, as charitable contributions, of payments made by taxpayers for admission to or other participation in fundraising activities for charity.

In the heading of this letter we have indicated whether you must file Form 990, Return of Organization Exempt From Income Tax. If Yes is indicated, you are required to file Form 990 only if your gross receipts each year are normally more than \$25,000. However, if you receive a Form 990 package in the mail, please file the return even if you do not exceed the gross receipts test. If you are not required to file, simply attach the label provided, check the box in the heading to indicate that your annual gross receipts are normally \$25,000 or less, and sign the return.

If a return is required, it must be filed by the 15th day of the fifth month after the end of your annual accounting period. A penalty of \$20 a day is charged when a return is filed late, unless there is reasonable cause for the delay. However, the maximum penalty charged cannot exceed \$10,000 or 5 percent of your gross receipts for the year, whichever is less. For organizations with gross receipts exceeding \$1,000,000 in any year, the penalty is \$100 per day per return, unless there is reasonable cause for the delay. The maximum penalty for an organization with gross receipts exceeding \$1,000,000 shall not exceed \$50,000. This penalty may also be charged if a return is not complete, so be sure your return is complete before you file it.

You are required to make your annual return available for public inspection for three years after the return is due. You are also required to make available a copy of your exemption application, any supporting documents, and this exemption letter. Failure to make these documents available for public inspection may subject you to a penalty of \$20 per day for each day there is a failure to comply (up to a maximum of \$10,000 in the case of an annual return).

You are not required to file federal income tax returns unless you are subject to the tax on unrelated business income under section 511 of the Code. If you are subject to this tax, you must file an income tax return on Form 990-T, Exempt Organization Business Income Tax Return. In this letter we are not determining whether any of your present or proposed activities are unre-

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lated trade or business as defined in section 513 of the Code.

You need an employer identification number even if you have no employees. If an employer identification number was not entered on your application, a number will be assigned to you and you will be advised of it. Please use that number on all returns you file and in all correspondence with the Internal Revenue Service.

If we have indicated in the heading of this letter that an addendum applies, the enclosed addendum is an integral part of this letter.

Because this letter could help resolve any questions about your exempt status and foundation status, you should keep it in your permanent records.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,

  
District Director